

# CITY COUNCIL REPORT



Meeting Date: *June 2, 2015*  
General Plan Element: *Public Services & Facilities*  
General Plan Goal: *Ensure renewable, long-term water supplies*

## ACTION

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**Subject statement.** Adopt Resolution No. 10171 authorizing Scottsdale Contract No. 2015-158-COS, an Assignment of the Purchase Agreement and Escrow Instructions, dated January 20, 2015, from the City of Scottsdale to Scottsdale National Golf Club, LLC for the purchase of land in the Harquahala Valley for the IWDS.

## OWNER: WATER RESOURCES DIVISION

## BACKGROUND

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On May 13, 2002, the City entered into the initial Irrigation Water Distribution System (IWDS) Pipeline Capacity Agreements ("PCAs") with Desert Mountain Properties Limited General Partnership ("Desert Mountain Properties"), and CGP-Granite Golf, LLC ("IWDS Participants"). The PCAs provided for the construction of a non-potable water delivery pipeline and groundwater recharge facility to deliver untreated Excess CAP water to Desert Mountain Properties and CGP-Granite Golf for the purpose of golf course turf irrigation and also established an operating account into which the IWDS Participants paid to fund operations and maintenance of the pipeline and groundwater recharge facility.

The Initial PCAs required the purchase of certain agricultural lands within the Harquahala Valley, water from which would be utilized to provide a backup non-potable water supply to the IWDS Participants should Excess CAP water no longer be available. Providing this backup water supply was required by the Arizona Department of Water Resources (ADWR) and the City to insure that the City continued to maintain a 100-year assured water supply. To satisfy this requirement the IWDS Participants purchased a 1,215 acre farm in the Harquahala Valley, west of Phoenix. It was intended that groundwater from the farm would be withdrawn, placed in a pipeline, pumped to the Central Arizona Project Canal, and transported to the City.

The conveyance of the farm to the City provided the City a replacement supply of 3,460 acre-feet per year of non-potable water. Under the PCAs, the City's share of the water supply was 1,260 acre-feet per year with the IWDS Participants receiving 2,200 acre-feet annually. This first IWDS farm was approximately 13.5 miles south of the Central Arizona Project Canal. It was estimated that

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it would cost at least \$30,000,000 to build the pipeline infrastructure to pump the water from that farm to the CAP canal. A City held escrow account was established into which the IWDS Participants contributed monthly to fund the eventual construction of a water pipeline delivery system from the Harquahala Valley lands, allowing the delivery of the Harquahala Valley water to the City and then on to the IWDS Participants. The IWDS Participants paid monthly into the pipeline infrastructure construction escrow account held by the City on behalf of the IWDS Participants. Since 2002, the golf courses paid almost \$10,000,000 into the account.

The high cost of constructing the IWDS pipeline from the Harquahala farm to the CAP Canal encouraged the IWDS Participants to look for alternatives to reduce this cost. They found another farm available for purchase less than 2 miles south of the CAP canal. The IWDS Participants arranged for the purchase of this second farm consisting of 1,021.31 acres. The initial PCAs authorized the use of funds from the escrow account to purchase property to replace the original farm if considered necessary. Thus, the \$10,000,000 in the escrow account was available to fund the purchase of this second farm. The City completed the purchase of this new farm on June 27, 2013.

With the purchase of this second farm, the original 1,215 acre farm was no longer needed and the City Council authorized the sale of that farm. It was sold for \$9,126,450 on June 27, 2014. Most of the funds from the sale were placed into a City account to cover the costs of drilling the groundwater wells and constructing the pipeline from the wells on this second farm to the CAP Canal. On September 12, 2013, CGP Granite Golf conveyed to Scottsdale National Golf Club, LLC all of CGP's interest in its golf course and the PCA, Scottsdale Contract No. 2002-066-COS-A1.

Because of drought conditions on the Colorado River, on or about October 15, 2013, the City received a three (3) year notice from the Central Arizona Ground Water Replenishment District (CAGRD) that Excess Central Arizona Project ("CAP") water would no longer be available for use by the City after October 15, 2016. This notice meant that the replacement supply of groundwater from the Harquahala Valley would be needed by the end of 2016. The PCAs required that when the City received this three (3) year notice, it must begin the design and construction of the necessary wells and pipeline to withdraw groundwater from this second Harquahala Farm, transport it to the CAP Canal, and wheel it through the CAP Canal to the City's CAP turnout. The groundwater withdrawn from this second Harquahala Farm and transported to the City via the CAP Canal qualified as a Long-Term Water Supply of 2,910 acre-feet per year. The City will continue to receive 1,260 acre-feet per year of this Replacement Water Supply for its own purposes, subject to the terms and conditions of the PCAs. Desert Mountain has the right to receive up to 1,100 acre-feet per year of the Replacement Water Supply for its purposes, and National has the right to receive up to 550 acre-feet per year of the Replacement Water Supply for its purposes, subject to the terms and conditions of the PCAs.

National now desires to design and construct a new eighteen-hole (18) golf course (the "New Golf Course") abutting against and immediately to the south of its existing golf course. While the IWDS system in Scottsdale was designed for the capacity of an additional golf course, the land for the Long Term Water Supply had not been purchased with the second farm. As a result, the City has required National to provide a Long-Term Water Supply for this New Golf Course. Pursuant to the terms of the National PCA, National has identified an additional parcel of real property consisting of approximately 258.19 acres. It is located in the Harquahala Valley and is immediately adjacent to the second farm. National believes that groundwater withdrawn from this new property will qualify as a Long-Term Water Supply for the New Golf Course.

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On January 20, 2015, the City Council approved a Purchase Agreement and Escrow Instructions, Scottsdale Contract No. 2014-167-COS, (the Agreement) with Vidler Water Company, Inc., a Nevada corporation, for the purchase of this 258.19 acre parcel of real property and its attendant water rights. Scottsdale National is required by the Agreement to pay for all costs associated with the purchase of this property, including all closing costs and realtors' commissions. The final date for the Closing of Escrow on this property is June 10, 2015.

It is anticipated that this property will provide 773.97 acre-feet per year of groundwater that will qualify as a Long-Term Water Supply based on the number of irrigation acres identified in the Notices of Irrigation Authority ("NIA") associated with the property. Of this total, 550 acre-feet will be available for use by National on the New Golf Course, and 223.97 acre-feet will be available for use by the City at no cost.

However, as a result of circumstances beyond the control of the parties, a Second Amended and Restated Pipeline Capacity Agreement adding this property and its attendant groundwater supply to the existing PCAs will not be completed and approved by the Scottsdale City Council before June 10, 2015, as originally contemplated by the City and Scottsdale National. Therefore, in order to permit the Escrow to Close on or before June 10, 2015, and in accordance with the terms of the Agreement, City desires to assign all of City's rights and interests in and to this Escrow to National, thereby permitting a timely Close of Escrow on the National Property. The Assignment requires Scottsdale National to deed this property to the City at no cost, free and clear of all liens and encumbrances, upon approval and execution of the Second Amended and Restated Pipeline Capacity Agreement between the City, Scottsdale National, and Desert Mountain. It is anticipated that this Second Amended and Restated PCA will be brought to the City Council for approval in July or August, 2015.

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## **IMPACT ANALYSIS**

**Water/Sewer:** The Irrigation Water Distribution System (IWDS) provides Excess CAP water for two (2) Desert Mountain golf courses and one (1) Scottsdale National golf course with the intent by Scottsdale National of adding a second golf course in the near future. Because of the drought on the Colorado River, at the end of 2016, this Excess CAP water will no longer be available and it will be necessary to use groundwater from the Harquahala Valley farms to replace this lost Excess CAP water. The City and the IWDS are now working to drill the wells and will soon begin constructing the pipeline to deliver this replacement supply of groundwater from the wells to the CAP Canal. All costs associated with the Purchase of this property, the design and construction of the wells and infrastructure, the costs of wheeling the water through the CAP Canal, and the operation and maintenance of the IWDS will be paid for by the golf courses.

**Staff Recommendation:** Approve the Assignment of the Escrow from the City to Scottsdale National Golf Club, LLC.

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## **OPTIONS & STAFF RECOMMENDATION**

### **Recommended Approach**

Adopt Resolution No. 10171 authorizing Scottsdale Contract No. 2015-158-COS, the Assignment of 13413465v1

## City Council Report |

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the Purchase Agreement and Escrow Instructions, dated January 20, 2015, from the City of Scottsdale to Scottsdale National Golf Club, LLC.

### Description of Option B

Deny approval of Resolution No. 10171.

### Proposed Next Steps:

1. In July or August, 2015, Water Resources will be bringing to the City Council for approval the Second Amended and Restated Pipeline Capacity Agreements, for Scottsdale National and Desert Mountain, setting forth the terms and conditions for the design, construction and transportation of groundwater from the Harquahala Valley to the City of Scottsdale's CAP Canal Turnout and to the golf courses through the IWDS delivery system located in the City of Scottsdale.
2. It is hoped that within a year, Water Resources will be able to bring to the City Council for approval, a Wheeling Agreement with the Bureau of Reclamation (BOR) and the Central Arizona Water Conservation District (CAWCD), providing for the transportation of groundwater through the CAP Canal to the City's Turnout.

### RESPONSIBLE DEPARTMENT(S)

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Water Resources

### STAFF CONTACTS (S)

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Brian K. Biesemeyer, Director, Water Resources

Clifford J. Frey, Senior Assistant City Attorney

### APPROVED BY

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Brian K. Biesemeyer, Director

Date: May 20, 2015

Brian K. Biesemeyer  
Director  
Water Resources  
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BBiesemeyer@Scottsdaleaz.gov

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Clifford J. Frey  
Senior Assistant City Attorney  
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## **ATTACHMENTS**

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1. Resolution No. 10171
2. Assignment of Purchase Agreement, Scottsdale Contract No. 2015-158-COS

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RESOLUTION NO. 10171

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING ASSIGNMENT NO. 2015-158-COS WHEREIN CITY ASSIGNS TO SCOTTSDALE NATIONAL GOLF CLUB, LLC, ALL CITY'S RIGHTS AND INTERESTS IN PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS, CONTRACT NO. 2014-167-COS FOR THE PURCHASE OF LAND IN THE HARQUAHALA VALLEY IRRIGATION DISTRICT TO PROVIDE A LONG-TERM WATER SUPPLY FOR THE NEW SCOTTSDALE NATIONAL GOLF COURSE.

The City and Desert Mountain Club, Inc. and CGP-Granite Golf, LLC, or their predecessors, (the "IWDS Golf Courses") each entered into an Irrigation Water Distribution System (IWDS) Pipeline Capacity Agreement ("PCA") on or about May 13, 2002. Under the PCAs, the City is obligated to deliver up to 2,200 acre-feet per year of Excess CAP Water to the golf courses in accordance with the terms and conditions of the PCAs. The City may utilize the remaining 1,260 acre-feet of the Original Water Supply for its own purposes, subject to the terms and conditions of the PCAs; and

Under the terms of the PCAs, Desert Mountain and CGP were required to provide a replacement supply of water, should the Excess CAP Water no longer be available to the City. As a result, Desert Mountain and CGP previously provided the funds for the City to purchase approximately 1,021.31 acres of land (the Desert-Granite Property) located in the Harquahala Irrigation Non-Expansion Area. The City closed on this property on June 27, 2013; and

Under the terms of the PCAs, the City has the right to approve a replacement or supplementary water supply as a Long-Term Water Supply and may acquire that replacement or supplementary water supply with monies held in the HVID Account; and

On September 12, 2013, CGP conveyed to Scottsdale National Golf Club, LLC, the Granite Golf course and all of CGP's interest in the National PCA, Scottsdale Contract No. 2002-066-COS-A1; and

Groundwater withdrawn from the Desert-Granite Property and transported to the City via the CAP Canal qualifies as a Long-Term Water Supply of 2,910 acre-feet per year (the "Replacement Water Supply"). The IWDS Golf Courses and the City intend that the City will continue to receive 1,260 acre-feet of the Replacement Water Supply for its own purposes, subject to the terms and Conditions of the PCAs. The IWDS Golf Courses will have the right to receive up to 1,650 acre-feet per year of the Replacement Water Supply, subject to the terms and conditions of the PCAs; and

National now desires to design and construct a new eighteen-hole (18) golf course (the "New Golf Course") abutting against and immediately adjacent to the south of its existing golf course. The City requires National to provide a new additional Long-Term Water Supply for the New Golf Course. National has identified a parcel of real property consisting of approximately 258.19 acres abutting and adjacent to the Desert-Granite Property in the Harquahala Valley. National believes that groundwater withdrawn from this National Property will qualify as a Long-Term Water Supply (as that term is defined in the PCAs) for the New Golf Course; and

On or about January 20, 2015, pursuant to authorization given by the City Council, the City entered into a Purchase Agreement and Escrow Instructions, Scottsdale Contract No. 2014-167-COS, (the Agreement) with Vidler Water Company, Inc., a Nevada corporation, for

the purchase of this National Property and its attendant water rights. Pursuant to the terms of the Agreement, the final date permitted for the Closing of Escrow is June 10, 2015; and

It is anticipated that the National Property will provide 773.97 acre-feet per year of groundwater that will qualify as a Long-Term Water Supply based on the number of irrigation acres identified in the Notices of Irrigation Authority ("NIA") associated with the National Property. Of this total, 550 acre-feet will be available for use by National on the New Golf Course, and 223.97 acre-feet will be available for use by the City; and

Because of the addition of this new National Property as a part of the IWDS, it was intended that the necessary amendments to the Amended and Restated Pipeline Capacity Agreements would be approved by the City Council before the Closing of the Escrow on this National Property. However, as a result of circumstances beyond the control of the parties, the drafting of these Second Amended and Restated Pipeline Capacity Agreements will not be completed and approved by the Scottsdale City Council before the required closing date on June 10, 2015; and

In order to permit the Escrow to Close on or before June 10, 2015 in accordance with the terms of the Agreement, City and National desire to assign all of City's rights and interests in and to the Escrow to National, thereby permitting a timely Close of Escrow on the National Property; and

Subsequently thereto, upon the approval and execution of the Second Amended and Restated Pipeline Capacity Agreements by National and Desert Mountain, National is required under the Assignment to convey the National Property and its attendant water rights to the City, at no cost to the City, free and clear of all liens and encumbrances.

BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. The Mayor is authorized and directed to execute Contract No. 2015-158-COS, the Assignment of all of City's rights and interest in Chicago Title Agency, Inc., Escrow No. C1406873-349-RN, dated January 20, 2015, to Scottsdale National Golf Club, LLC.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 2nd day of June, 2015.

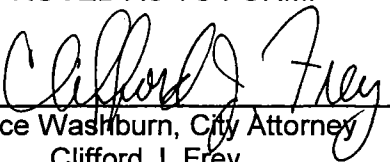
ATTEST:

CITY OF SCOTTSDALE,  
An Arizona Municipal Corporation

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

By: \_\_\_\_\_  
W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bruce Washburn, City Attorney  
By: Clifford J. Frey  
Senior Assistant City Attorney



**ASSIGNMENT OF BUYER'S INTEREST IN  
CHICAGO TITLE AGENCY, INC.  
ESCROW NO. C1406873-349-RN  
DATED JANUARY 20, 2015**

THIS ASSIGNMENT OF PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS (this "Agreement") is made this \_\_\_\_ day of June, 2015 ("Execution Date"), by and between the CITY OF SCOTTSDALE, ARIZONA, an Arizona municipal corporation ("City" or "Buyer"), and SCOTTSDALE NATIONAL GOLF CLUB, LLC, an Arizona limited liability company ("National").

**RECITALS**

A. On or about February 5, 2013, the City and Desert Mountain Club, Inc., an Arizona non-profit corporation, and the City and National's predecessor, CGP-Granite Golf, LLC, an Arizona limited liability company ("CGP"), entered into separate Amended and Restated Pipeline Capacity Agreements ("PCAs"). The Desert Mountain PCA and the National PCA are sometimes hereinafter collectively referred to as the "2013 PCAs". Both the Desert Mountain 2013 PCA and the National 2013 PCA became effective on June 27, 2013.

B. On September 12, 2013, CGP conveyed to National, among other things, all of CGP's interest in the National PCA, Scottsdale Contract No. 2002-066-COS-A1.

C. On June 27, 2013, the City closed on the purchase of approximately 1,021.31 acres of land, known as the Desert-Granite Property, and located entirely within the Harquahala Irrigation Non-Expansion Area as established under Title 45 of the Arizona Revised Statutes (the "Desert-Granite Property").

D. On or about October 15, 2013, the City received a three (3) year notice from CAGRD that Excess Central Arizona Project ("CAP") water would no longer be available for use by the City after October 15, 2016.

E. National desires to design and construct a new eighteen-hole (18) golf course (the "New Golf Course") abutting against and immediately to the west of its existing golf course. The City requires National to provide a Long-Term Water Supply for the New Golf Course. Pursuant to Section 7.2 of the National 2013 PCA, National has identified additional parcels of real property consisting of approximately 258.19 acres, and located in the Harquahala Valley, the legal description of which is attached as Exhibit "A." A map depicting the property is attached as Exhibit "A-1," hereinafter the "National Property." National believes that groundwater withdrawn from the National Property will qualify as a Long-Term Water Supply (as that term is defined in the 2013 PCAs) for the New Golf Course.

F. On or about January 20, 2015, and in accordance with Section 7.2 of the National 2013 PCA, National and the City entered into a Purchase Agreement and Escrow Instructions, Scottsdale Contract No. 2014-167-COS, (the "Vidler Agreement") with Vidler Water Company, Inc., a Nevada corporation, for the purchase of the National Property and its attendant water rights.



G. The closing of the acquisition of the National Property has been extended three (3) times as permitted under, and in accordance with, the terms of the Vidler Agreement. The deadline for the Closing of Escrow on the National Property is June 10, 2015.

H. It is anticipated that the National Property will provide 773.97 acre-feet per year of groundwater that will qualify as a Long-Term Water Supply based on the number of irrigation acres identified in the Notices of Irrigation Authority ("NIA") associated with the National Property. After deducting 5% of this amount for anticipated losses during transportation of the water through the CAP Canal, 550 acre-feet of this amount will be available for use by National on the New Golf Course, and 185.27 acre-feet will be available for use by the City.

I. As a result of circumstances beyond the control of the City and National, a Second Amended and Restated Pipeline Capacity Agreement for each of Desert Mountain and National (collectively, the "2015 PCAs") will not be completed and approved by the Scottsdale City Council (the "City Council") on or before June 10, 2015, as originally contemplated.

J. The approval by the City Council of the 2015 PCAs is a prerequisite of the Vidler Agreement to the close of escrow for the National Property.

K. In order to permit the Escrow to Close on or before June 10, 2015, and in accordance with the terms of the Vidler Agreement, the City and National desire to assign all of the City's right, title and interest in and to the Vidler Agreement and the Escrow to National, thereby permitting a timely Close of Escrow on the National Property by National.

L. Subsequently thereto, upon the approval and execution of the 2015 PCAs by each of National and Desert Mountain, National will convey the National Property and its attendant water rights to the City, at no cost to the City, free and clear of all liens and encumbrances.

### **AGREEMENTS**

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, City and National agree as set forth in this Agreement. All capitalized terms not defined in the body of this Agreement shall have the meanings ascribed to them as set forth in the 2013 PCAs or the Vidler Agreement, as applicable.

1. **ASSIGNMENT OF ESCROW:** In accordance with Section 22.6 of the Agreement, City does hereby assign, set over, and transfer to National, all its right, title and interest in and to the Vidler Agreement and Escrow No. C1406873-349-RN, dated January 20, 2015 at Chicago Title Agency, Inc., 6710 N. Scottsdale Road, Suite 100, Scottsdale, Arizona 85253. National does hereby assume any and all the obligations imposed on City as Buyer under the terms of the Agreement. National agrees to pay the purchase price, together with any and all other sums due and owing on the National Property as described in the Agreement, now due or to become due, including but not limited to, any and all due diligence and closing costs incurred under the terms of the Agreement. For purposes of satisfying its obligations under this Section 1, (i) National shall be entitled to use all sums previously deposited by City with Escrow Agent pursuant to Section 3.1 of the Vidler Agreement and all sums previously deposited by National into Buyer's National Account pursuant to Section 3.2 of the Vidler Agreement, and (ii) City shall deposit with Escrow Agent, not later than June 5, 2015, all sums previously deposited by National in Buyer's National Account, less any Due Diligence Costs and Closing Costs incurred by City prior to June 5, 2015.

2. REIMBURSEMENT OF DUE DILIGENCE COSTS AND CLOSING COSTS:

Prior to making the deposit required by Section 1(ii) above, City may withdraw from Buyer's National Account an amount equal to any Due Diligence Costs and Closing Costs incurred by City pursuant to the Vidler Agreement. Prior to withdrawing such amount, City shall provide to National an itemized list of all such Due Diligence Costs and Closing Costs.

3. WAIVER OF CLOSING CONDITION: City and National hereby waive the requirements of Section 7.3(b)(iv) and (v), and Section 11.1(c) requiring that the 2015 PCAs be approved and executed prior to the Closing and confirm that the Closing may occur prior to the execution of the 2015 PCAs.

4. CONVEYANCE OF NATIONAL PROPERTY TO CITY: National desires to construct and operate the New Golf Course. In accordance with Section 7.2 of the National 2013 PCA, the City has determined that the quantity of groundwater that can be withdrawn from the existing Desert-Granite Property is insufficient to provide a Long-Term Water Supply for the New Golf Course. In order to provide a Long-Term Water Supply to City for the New Golf Course, National has identified the National Property that is now in Escrow as described above, and is located in the Harquahala Valley Irrigation Non-Expansion Area. National believes that the National Property has a sufficient supply of groundwater to qualify as a Long-Term Water Supply, adequate to meet the needs of the New Golf Course. National agrees that upon approval and execution of the 2015 PCAs by National, Desert Mountain and City, National will convey all its right, title and interest in the National Property and any and all of its attendant water rights to City, at no cost to City, free and clear of all liens and encumbrances. City shall have no obligation to provide any water, whether Excess CAP water, M&I water, reclaimed water, or groundwater (potable or non-potable), to the New Golf Course through the Irrigation Water Distribution System (IWDS) if National fails or refuses to promptly convey the National Property to City upon approval and execution of the 2015 PCAs.

5. NATIONAL WATER INFRASTRUCTURE:

(a) Acting in good faith, and in accordance with the National 2013 PCA, and recognizing that City has received the three-year (3) year notice from the Central Arizona Water Conservation District (CAWCD) that a shortage may be declared on the Colorado River on or before the end of 2016, City has commenced the design and construction of the necessary infrastructure to be located on the Desert-Granite Property, permitting the withdraw of groundwater from the Desert-Granite Property and its transportation to the CAP Canal. In reliance on National's commitment to acquire the National Property, City has included in the design and construction of the Desert-Granite Water Infrastructure, capacity sufficient to withdraw and transport groundwater for the New Golf Course from the Desert-Granite Property or the National Property, as City may determine in its sole discretion. Set forth in Exhibit "H," attached hereto, is City's estimate of the costs for the design and construction of such capacity. Until such time as City installs the Desert-Granite Water Infrastructure, City will review and evaluate in writing the accuracy of the assumptions described on Exhibit "H" every sixty (60) days, or such lesser time as it considers prudent, from the later of the effective date of this Assignment or the date of City's most recent recalculation of Exhibit "H." On each occasion that City recalculates the Exhibit "H" Cost Estimate, and there are insufficient funds in the HVID Account, to cover the new cost estimate, National will deposit into the National Subaccount, sufficient funds to cover the costs of such recalculation of the Exhibit "H" Cost Estimates. National will deposit additional funds into the National Subaccount for Exhibit "H" costs and expenses as required under the National 2013 PCA.

(b) Failure of National to satisfy its Potential Deficit, as that term is defined in the National 2013 PCA, for Exhibit "H" costs within thirty (30) days through the deposit of additional funds into the HVID Account as required by the PCA will entitle City to invoke the remedies specified in Section 3.5(c) of the National 2013 PCA. .

6. **RELEASE AND ESTOPPEL AGREEMENT:** City and National agree that upon approval and execution of the National 2015 PCA, the parties will execute a Release and Estoppel Agreement, in the form and substance as that set forth as Exhibit "F" to the Vidler Agreement.

7. **MISCELLANEOUS:**

7.1 Entire Agreement. This Assignment, together with any exhibits and other matters attached hereto and/or incorporated herein by reference, constitutes the entire contract and agreement between the parties. All terms, conditions, representations, warranties, understandings and interpretations contained in any other written or oral communications between the parties are superseded. In executing this Assignment, the parties acknowledge that they are relying solely on the matters set forth herein and not on any other inducements, written or oral, by the other party or any agent, employee or representative thereof.

7.2 Section Headings. The section headings of this Assignment are inserted only for convenient reference and do not define, limit, or prescribe the scope of this Agreement.

7.3 Governing Law. This Assignment shall be construed under and governed by the laws of the State of Arizona.

7.4 Time of Essence. Time is of the essence of this Assignment.

7.5 Severability. In case any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Assignment shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

7.6 Execution in Counterparts. This Assignment may be executed in counterparts, each of which, when so executed and delivered, shall constitute an original; but all such counterparts shall together constitute but one and the same Assignment.

7.7 Attorneys' Fees. If any party commences litigation or other legal proceedings against the other party for a default hereunder or to enforce the provisions hereof, the prevailing party in any such proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees and expert witness fees, with attorneys' fees to be determined by the court and not a jury in any such litigation.

7.8 Further Instruments. Each party, promptly upon the written request of the other or Escrow Agent, shall execute (and have acknowledged, if appropriate) and deliver to the other or to Escrow Agent, or as may be otherwise reasonably designated, all additional instruments reasonably requested to evidence or give effect to this Assignment, whether the request is made before or after the Closing.

7.9 Modification of Assignment. No modification of this Assignment shall be effective unless it is in writing and is signed by all parties.

7.10 Time Periods. If the time fixed for performance of any obligation hereunder expires on a Saturday, Sunday or legal holiday, the deadline shall be extended automatically to the next day that is not a Saturday, Sunday or legal holiday. Except as may be otherwise expressly provided herein, the time for performance of any obligation hereunder shall expire at 11:30 a.m. (Arizona time) on the last day of the period allowed hereunder.

7.11 Inurement. This Assignment shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors, and assigns of the respective parties.

7.12 Survival. Any provision of this Assignment that requires performance after the Closing Date shall survive Closing and shall not be merged into the Deed or any other instrument delivered at the Closing.

7.13 Recitals. The Recitals are, by this reference, made a part of this Assignment.

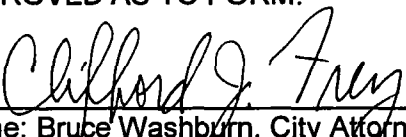
CITY OF SCOTTSDALE,  
an Arizona municipal corporation

By: \_\_\_\_\_  
W. J. "Jim" Lane, Mayor

ATTEST:

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

  
Name: Bruce Washburn, City Attorney  
By: Clifford J. Frey  
Senior Assistant City Attorney

SCOTTSDALE NATIONAL GOLF CLUB, LLC:

By:   
Name: STEVE GAFFNEY  
Its: MANAGER

ESCROW AGENT'S ACCEPTANCE:

The undersigned Escrow Agent hereby (a) accepts the Assignment of the Escrow created by the foregoing Assignment, (b) agrees to act in accordance with the terms of this Assignment, (c) agrees to be the person responsible for closing the transaction within the meaning of Section 6045(e)(2)(A) of the Internal Revenue Code of 1986 (the "Code") and filing all necessary information reports, returns and statements (collectively, the "Tax Reports") regarding the transaction required by the Code and, promptly upon the filing of the Reports, transmit copies of the Reports to National as Buyer, City, and Seller, (d) agrees to indemnify and hold harmless Seller, National, City and their respective attorneys and brokers from and against all claims, costs, liabilities, penalties, or expenses resulting from Escrow Agent's failure to file the Reports.

Escrow Agent acknowledges receipt of four (4) originals of the Assignment executed by City and National. Upon its execution, Escrow Agent agrees to return one (1) original of the Assignment to National, Seller, and City, and retain one (1) original for Escrow Agent's files.

Dated this \_\_\_\_\_, 2015

Escrow Agent:

Chicago Title Agency, Inc.

By: \_\_\_\_\_

Rose Norton, Escrow Office

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF NATIONAL PROPERTY**

**Parcel 1**

Assessor's Parcel Numbers 303-40-009A and 303-40-010, a portion of the South half (S ½) of the South half (S ½) of Section 35, Township 3 North, Range 11 West, of the Gila and Salt River Base and Meridian, La Paz County. Excepting therefrom one-third (1/3) of all oil gas, minerals and other hydrocarbon substances as reserved in an instrument Recorded April 24th, 1958, in Docket 222, page 514 Records of Yuma (now La Paz County), Arizona. Assessor's Parcel Number 303-40-009A being described as the New Parcel #6 in the Lot Line Adjustment map recorded October 10, 2012, Document #2012-05399, La Paz County Recorder. Assessor's Parcel Number 303-40-010 being described as the East 2,310 feet of the South half (S ½) of the South half (S ½) of Section 35, Township 3 North, Range 11 West, of the Gila and Salt River Base and Meridian, La Paz County, Arizona. Excepting therefrom the East 60 feet of the Southeast quarter (SE ¼) of the Southeast quarter (SE ¼) of the Southeast quarter (SE ¼) per Document No. 2001-01236, La Paz County Recorder. 98.06 acres more or less.

**Parcel 2**

Assessor's Parcel Number 303-04-002-A (part) in the South half (S ½) of the Southwest quarter (SW ¼) of Section 1, Township 2 North, Range 11 West, of the Gila and Salt River Base and Meridian, La Paz County, Arizona. 60.05 acres more or less

**Parcel 3**

Assessor's Parcel Numbers 303-04-001B, 303-04-001C, and 303-04-002A (part) in the Southwest quarter (SW ¼) of Section 1, Township 2 North, Range 11 West of the Gila and Salt River Base and Meridian. 100.08 acres more or less

Parcel 1 – 98.06 acres

Parcel 2 – 60.05 acres

Parcel 3 – 100.08 acres  
258.19 acres

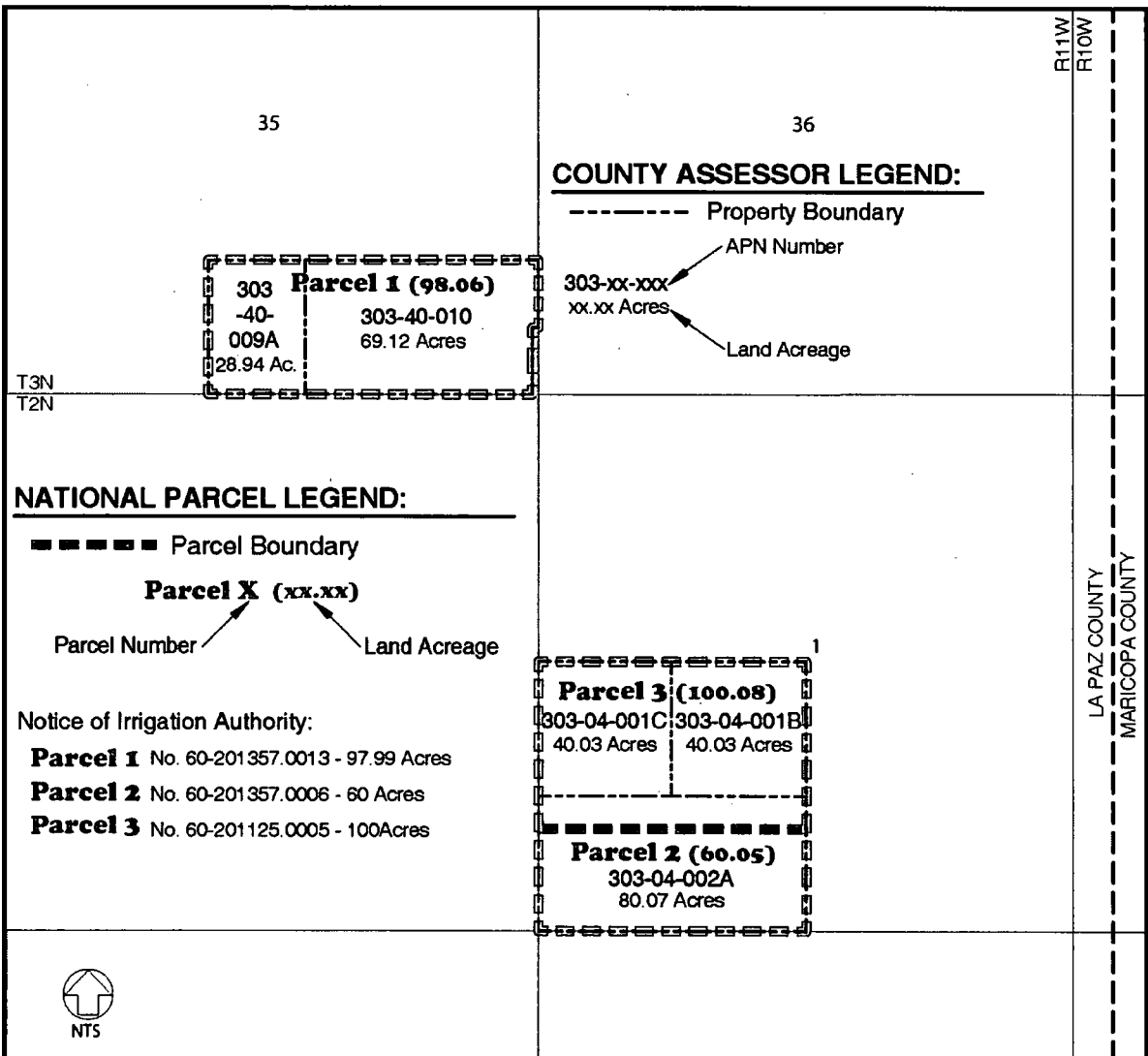
**EXHIBIT "A1"**

**MAP OF THE NATIONAL PROPERTY**

(SEE ATTACHED)



**EXHIBIT "A1"**  
**THE NATIONAL PROPERTY**



Revised COS Cost Estimate Highest Cost.

TWO WELLS EACH PRODUCING 1055 GPM. 14" LINE THAT IS 1.83 MILES LONG AND 10" LINE THAT IS 1.5 MILES LONG

IWDS - HWY&P Project - Vidler Infrastructure			12/5/2014	
Item	Unit	Total Unit Cost	Quantity	Total Item Cost
Mobilization / Demobilization	LS	\$80,000	1	\$80,000
Site Work - Well Site	LS	\$25,000	2	\$50,000
Construction Staking	LS	\$40,000	1	\$40,000
10" Transmission Main	LF	\$50	7920	\$396,000
14" Transmission Main	LF	\$70	9770	\$684,000
1055 gpm Well assembly	EA	\$700,000	2	\$1,400,000
Wellhead On-Site Water Treatment	LS	\$0	2	\$0
Service Panels & Electric Distribution	EA	\$175,000	1	\$175,000
Elec Transformer, Poles & Wiring	LS	\$50,000	2	\$100,000
SCADA Related (I&C and Integration)	LS	\$150,000	1	\$150,000
CAP Junction Structure & Restoration	LS	\$50,000	1	\$50,000
Construction Subtotal				\$3,125,000
Escalation to Constr Mid-point (3.92%)				\$123,000
Subtotal Escalated Construction				\$3,248,000
Contingency 25%				\$812,000
Total Direct Costs				\$4,060,000
Indirect Costs				
General Conditions (6%)				\$244,000
Bonds & Insurance (3%)				\$122,000
General OH Profit & Risk (10%)				\$406,000
Sales Tax (50% of 7.95% on Direct Costs)				\$161,000
Subtotal Indirect Costs				\$933,000
Total Construction Cost Estimate				\$4,993,000
Other Project Costs				
Engineering (9%), CM (7%)				\$798,000
Permitting Fee Allowance				\$25,000
CMAR Preconstruction Services (1.5%)				\$75,000
Owner's Reserve for Change Orders (5%)				\$250,000
CAP Review & Inspection Services Cost				\$10,000
CPM Salaries (4%)				\$200,000
Work Order Credits (9%)				\$449,000
CPM Allocation (2%)				\$100,000
Subtotal Other Project Costs				\$1,907,000
TOTAL PROJECT COST ESTIMATE				\$6,900,000

**Assumptions:**

- \* Assumptions from Carollo's July 2014 Cost Estimate Memorandum apply here
- \* Engineering Costs were raised in this version to account for more intense efforts required to facilitate electrical service and to design local road mods needed for construction and maintenance access. Summer 2014 Monsoon storms introduced substantial to existing access roads.
- \* Access Roadway improvement construction costs are assumed to be addressed through contingency funds or other possible project savings at this point.
- \* Wellhead treatment is still assumed to be \$0 until more clarity can be provided by agencies

\$4,060,000

\$243,600
\$121,800
\$406,000
\$161,385

\$4,993,000

\$798,880
\$25,000
\$74,895
\$249,650
\$10,000
\$199,720
\$449,370
\$99,880

**EXHIBIT "H"**  
**COST ESTIMATES**

Scottsdale Contract No. 2015-158-COS